

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2004-794

November 30, 2004

SELECT ENERGY NEW YORK  
Request for Waiver Concerning  
Portfolio Requirement Rule

ORDER GRANTING WAIVER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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In its July 1, 2004 annual report filing, Select Energy New York (SENY) requested a waiver of the portfolio requirement rule (Chapter 311) to allow its affiliate, Select Energy, Inc. (Select), to make up its 2003 portfolio requirement shortfall. I grant the waiver as requested.

In its filing, SENY explained that it has abandoned its Maine competitive electricity provider (CEP) license, effective May 1, 2004, and had acquired no new customers in 2003. SENY's service in 2003 was limited to fulfilling the remainder of its contractual obligations to its one remaining customer. SENY reported that 24% of its Maine load was supplied by eligible resources as defined in Chapter 311, leaving a 6% deficiency (or 350.5 MWh) against Maine 30% portfolio requirement. SENY stated that Select had surplus eligible resources during 2003 of 243,978 MWh and asks that 351.5 MWh of that surplus be applied to cure its deficiency. SENY and Select were affiliated through all of 2003.

Chapter 311 requires that each CEP comply with the 30% portfolio requirement. Ch. 311, § 3(A). The rule does not explicitly allow for an affiliate to make up for a shortfall in eligible generation. However, section 7 of the rule allows for waivers of its provisions for good cause if the waiver is not inconsistent with the purposes of the Chapter. I find good cause upon the specific facts provided in this case and hereby grant a waiver of Chapter 311, section 3(A) to allow SENY to satisfy the balance of its 2003 obligation with excess eligible generation from its affiliate, Select Energy.

BY ORDER OF THE DIRECTOR OF TECHNICAL ANALYSIS

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Faith Huntington